

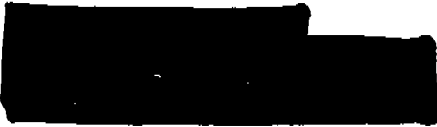


UNDER SECRETARY OF THE ARMY
WASHINGTON

08 MAR 2000



CHALLENGE Number 2000-0003



Dear [REDACTED]

This responds to your appeal of the February 14, 2000, decision of the Assistant Secretary of the Army (Manpower and Reserve Affairs) denying your challenge to the 1999 FAIR Act inventory. I received your appeal on February 23, 2000.

Function Code S701, Advertising and Public Affairs

Activity Challenged. You are appealing the decision that the "Advertising and Public Affairs," Function Code S701, was properly included on the list.

Decision. I have reviewed the Assistant Secretary's decision, which is incorporated herein by reference, in light of your appeal. Based upon this review, I have determined that the activities included under Function Code S701 pertaining to "Advertising and Public Affairs" are not inherently Governmental. Therefore, I am affirming the challenge decision that they are properly included in the Army's FAIR Act list.

Rationale. Your appeal contends that public affairs is inherently Governmental because, in your view, the function title improperly includes "advertising" and because it is not listed in the appendix to Office of Management and Budget Circular A-76. However, the appendix is not intended to be an exhaustive and complete enumeration of commercial functions. In addition, the function title and other issues raised in your appeal are outside the scope of the FAIR Act challenge and appeal process.

Please note that the Army's FAIR Act determinations are only one step in pursuing a larger objective. The larger objective is to ensure that Army functions and activities are performed in a manner that is both cost-effective and in the best interests of the taxpayers. In this connection, the Army FAIR Act inventory will be reviewed in conjunction with the Army's larger, ongoing review of all functions for possible re-engineering, privatization, consolidation or other reinvention efforts. As the Assistant Secretary indicated, these reviews may lead to decisions to keep performance of some activities in-house based on risk assessment, national security considerations, or enlightened human resources management.

Bernard Rostker





UNDER SECRETARY OF THE ARMY
WASHINGTON

08 MAR 2000



CHALLENGE Number 2000-0004



Dear [REDACTED]

This responds to your appeal of the February 14, 2000, decision of the Assistant Secretary of the Army (Manpower and Reserve Affairs), denying your challenge to the 1999 FAIR Act inventory. I received your appeal on February 23, 2000.

Function Code S701, Advertising and Public Affairs

Activity Challenged. You are appealing the decision that the "Advertising and Public Affairs," Function Code S701, was properly included on the list.

Decision. I have reviewed the Assistant Secretary's decision, which is incorporated herein by reference, in light of your appeal. Based upon this review, I have determined that the activities included under Function Code S701 pertaining to "Advertising and Public Affairs" are not inherently Governmental. Therefore, I am affirming the challenge decision that they are properly included in the Army's FAIR Act list.

Rationale. Your appeal contends that public affairs is inherently Governmental because it is not listed as commercial in the appendix to Office of Management and Budget Circular A-76, because the function is mislabeled, and because the Public Affairs function at West Point involves the exercise of discretion and the making of value judgments. However, the A-76 appendix is not intended to be an exhaustive and complete enumeration of commercial functions. The FAIR Act definition of the Public Affairs function is not limited by its title. Moreover, the Assistant Secretary's decision did consider the types and levels of decisions made in the Public Affairs staff at the Academy. In this regard, his decision is fully compatible with an Army-wide functional determination that Public Affairs is not inherently Governmental at the installation level.

Please note that the Army's FAIR Act determinations are only one step in pursuing a larger objective. The larger objective is to ensure that Army functions and activities are performed in a manner that is both cost-effective and in the best interests of the taxpayers. In this connection, the Army FAIR Act inventory will be reviewed in conjunction with the Army's larger, ongoing review of all functions for possible



re-engineering, privatization, consolidation or other reinvention efforts. As the Assistant Secretary indicated, these reviews may lead to decisions to keep performance of some activities in-house based on risk assessment, national security considerations, or enlightened human resources management.

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Bernard Rostker



UNDER SECRETARY OF THE ARMY
WASHINGTON

08 MAR 2008



CHALLENGE Number 2000-0010



Dear [REDACTED]

This responds to your appeal of the February 14, 2000, decision of the Assistant Secretary of the Army (Manpower and Reserve Affairs), denying your challenge to the 1999 FAIR Act inventory. I received your appeal on February 25, 2000.

Function Code S701, Advertising and Public Affairs

Activity Challenged. You are appealing the decision that the "Advertising and Public Affairs," Function Code S701, was properly included on the list.

Decision. I have reviewed the Assistant Secretary's decision, which is incorporated herein by reference, in light of your appeal. Based upon this review, I have determined that the activities included under Function Code S701 pertaining to "Advertising and Public Affairs" are not inherently Governmental. Therefore, I am affirming the challenge decision that they are properly included in the Army's FAIR Act list.

Rationale. Your appeal suggests that the Assistant Secretary's decision did not consider the very important Public Affairs mission at West Point to communicate the purpose, mission, vision and values of the institution. In fact, his decision explicitly describes the Public Affairs function at all levels of the Army to provide official information about the Army. Most importantly, his decision recognizes that the range of discretion available to public affairs personnel is relatively circumscribed at the installation level. The grade level presumption referred to in his decision is intended to reflect that determination and is fully compatible with an Army-wide functional determination that Public Affairs is not inherently Governmental at the installation level.

Please note that the Army's FAIR Act determinations are only one step in pursuing a larger objective. The larger objective is to ensure that Army functions and activities are performed in a manner that is both cost-effective and in the best interests of the taxpayers. In this connection, the Army FAIR Act inventory will be reviewed in conjunction with its larger, ongoing review of all functions for possible re-engineering, privatization, consolidation or other reinvention efforts. As the Assistant Secretary



indicated, these reviews may lead to decisions to keep performance of some activities in-house based on risk assessment, national security considerations, or enlightened human resources management.

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Bernard Rostker



UNDER SECRETARY OF THE ARMY
WASHINGTON

08 MAR 2000



CHALLENGE Number 2000-0011



Dear [REDACTED]

This responds to your appeal of the February 14, 2000, decision of the Assistant Secretary of the Army (Manpower and Reserve Affairs), denying your challenge to the 1999 FAIR Act inventory. I received your appeal on March 1, 2000.

Function Code S701, Advertising and Public Affairs

Activity Challenged. You are appealing the decision that the "Advertising and Public Affairs," Function Code S701, was properly included on the list.

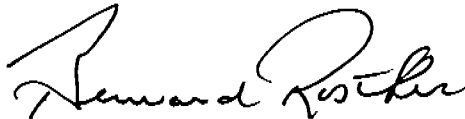
Decision. I have reviewed the Assistant secretary's decision, which is incorporated herein by reference, in light of your appeal. Based upon this review, I have determined that the activities included under Function Code S701 pertaining to "Advertising and Public Affairs" are not inherently Governmental. Therefore, I am affirming the challenge decision that they are properly included in the Army's FAIR Act list.

Rationale. Your appeal contends that public affairs is inherently Governmental because the function, as performed at the West Point Public Affairs Office, does not meet the "Advertising and Public Relations Services" definition in Office of Management and Budget Circular A-76, and because it requires personal services such as for the performance of the time-sensitive tasks necessary to respond to particular queries. Your appeal also questions the Assistant Secretary's consideration of grade level in making his determination. The Army FAIR Act definition of this function is not limited by its title or by the Circular. The issue of personal services pertains to supervisor/subordinate relationships in performing tasks; it does not relate to whether the work is Governmental in nature. Finally, the Assistant Secretary's decision recognizes that the range of discretion available in public affairs offices is relatively limited at the installation level. Therefore, the grade level presumption referred to in his decision is fully compatible with an Army-wide functional determination that Public Affairs is not inherently Governmental at the installation level.

Please note that the Army's FAIR Act determinations are only one step in pursuing a larger objective. The larger objective is to ensure that Army functions and



activities are performed in a manner that is both cost-effective and in the best interests of the taxpayers. In this connection, the Army FAIR Act inventory will be reviewed in conjunction with its larger, ongoing review of all functions for possible re-engineering, privatization, consolidation or other reinvention efforts. As the Assistant Secretary indicated, these reviews may lead to decisions to keep performance of some activities in-house based on risk assessment, national security considerations, or enlightened human resources management.

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Bernard Rostker



UNDER SECRETARY OF THE ARMY
WASHINGTON

08 MAR 2000



CHALLENGE Number 2000-0016



Dear [REDACTED]

This responds to your appeal of the February 14, 2000, decision of the Assistant Secretary of the Army (Manpower and Reserve Affairs), denying your challenge to the 1999 FAIR Act inventory. I received your appeal on February 28, 2000.

Function Code S701, Advertising and Public Affairs

Activity Challenged. You are appealing the decision that the "Advertising and Public Affairs," Function Code S701, was properly included on the list.

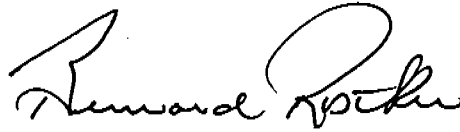
Decision. I have reviewed the Assistant Secretary's decision, which is incorporated herein by reference, in light of your appeal. Based upon this review, I have determined that the activities included under Function Code S701 pertaining to "Advertising and Public Affairs" are not inherently Governmental. Therefore, I am affirming the challenge decision that they are properly included in the Army's FAIR Act list.

Rationale. Your appeal contends that the Assistant Secretary's decision did not adequately consider the types of challenges faced and discretionary decisions made every day in the Academy's Public Affairs Office. The Assistant Secretary's decision does take these challenges and decisions into account. Nevertheless, his decision is fully compatible with an Army-wide functional determination that Public Affairs is not inherently Governmental at the installation level. Other issues raised in your appeal are outside the scope of FAIR Act challenge and appeal process.

Please note that the Army's FAIR Act determinations are only one step in pursuing a larger objective. The larger objective is to ensure that Army functions and activities are performed in a manner that is both cost-effective and in the best interests of the taxpayers. In this connection, the Army FAIR Act inventory will be reviewed in conjunction with its larger, ongoing review of all functions for possible re-engineering, privatization, consolidation or other reinvention efforts. As the Assistant Secretary



indicated, these reviews may lead to decisions to keep performance of some activities in-house based on risk assessment, national security considerations, or enlightened human resources management.

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Bernard Rostker



UNDER SECRETARY OF THE ARMY
WASHINGTON

21 MAR 2000



CHALLENGE Number 2000-0017



Dear [REDACTED]

This responds to your appeal of the February 14, 2000, decision of the Assistant Secretary of the Army (Manpower and Reserve Affairs), denying your challenge to the 1999 FAIR Act inventory. I received your appeal on March 7, 2000.

Function Code S701, Advertising and Public Affairs

Activity Challenged. You are appealing the decision that the "Advertising and Public Affairs," Function Code S701, was properly included on the list.

Decision. I have reviewed the Assistant Secretary's decision, which is incorporated herein by reference, in light of your appeal. Based upon this review, I have determined that the activities included under Function Code S701 pertaining to "Advertising and Public Affairs" is not inherently Governmental. Therefore, I am affirming the challenge decision that they are properly included in the Army's FAIR Act list.

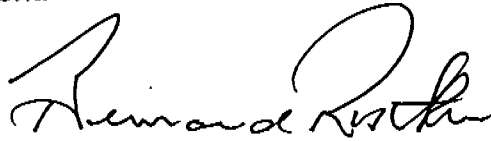
Rationale. Your appeal suggests that the Assistant Secretary's decision (that the function of Advertising and Public Affairs is not inherently Governmental) should be overturned because he did not specifically address every issue raised in your challenge. The FAIR Act requires a rationale for a determination of whether a function is or is not inherently Governmental. In making this determination, the Assistant Secretary considered every comment and contention which he believed to be germane. However, he did not think it necessary to comment in his decision on every issue raised in your challenge letter. The Army framework for FAIR Act challenges is based on rendering functional determinations on an Army-wide basis on what functions are or are not inherently Governmental. Having a consistent rationale for such an Army-wide functional determination may have resulted in what your appeal characterizes as a "form letter," but assures that each challenge or appeal within the same functional area is dealt with in a consistent manner based on the same rationale.

Your appeal contends that the West Point Public Affairs Office is unique and that the definition of Function S701 is not representative of your functions as performed at West Point. The Army FAIR Act definition of this function is set forth at <http://www.asamra.army.pentagon.mil/fair>, which is hyperlinked to the DOD FAIRNET



website at <http://gravity.lmi.org/DODFAIR>. It includes activities such as community relations, news media facilitation, information services, and other activities to provide official information about the Army to the public and public media. This functional definition seems adequate to be applicable to the Academy's public affairs office as you described it in your challenge letter.

Please note that the Army's FAIR Act determinations are only one step in pursuing a larger objective. The larger objective is to ensure that Army functions and activities are performed in a manner that is both cost-effective and in the best interests of the taxpayers. In this connection, the Army FAIR Act inventory will be reviewed in conjunction with the Army's larger, ongoing review of all functions for possible reengineering, privatization, consolidation or other reinvention efforts. As the Assistant Secretary indicated, these reviews may lead to decisions to keep performance of some activities in-house based on risk assessment, national security considerations, or enlightened human resources management.

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Bernard Rostker